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2015 MAR 25 PM 12:30

WESTERN DISTRICT OF TEXAS

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

MARGARITA HERNANDEZ (2),

Defendants.

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CRIMINAL NO: EP-15-CR-

SEALED
INDICTMENT

CT 1: 18 U.S.C. § 371 – Conspiracy to Defraud the United States.

CTS 2-22: 26 U.S.C § 7206(2) – Aid and Assist the Preparation of a False Tax Return

EP15 CR0416

THE GRAND JURY CHARGES THAT:

COUNT ONE
(18 U.S.C. § 371)

THE CONSPIRACY

From on or about February 9, 2009, and continuing thereafter up to and including on or about June 6, 2011, in the Western District of Texas and elsewhere, the defendants,

MARGARITA HERNANDEZ (2),

defendants herein, did unlawfully, voluntarily, intentionally and knowingly conspire, combine, confederate, and agree together and with each other and with other individuals both known and unknown to the Grand Jury to commit offenses against the United States: to wit, to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment, and collection of revenue: to wit, income taxes.

PARTIES, PERSONS AND ENTITIES

At all relevant times,

1. [REDACTED] was the owner of Mendez Tax Services (MTS), a tax preparation Business, located in El Paso, TX, within the Western District of Texas, during the calendar years of 2008, 2009, 2010 and 2011.
2. MTS was located in [REDACTED] [REDACTED] home during the timeframe of this Indictment.
3. Margarita Hernandez was an employee who prepared tax returns for taxpayers who sought the services of MTS, for tax years 2008, 2009, and 2010.
4. [REDACTED] was an employee who prepared tax returns for taxpayers who sought the services of MTS, for tax years 2008, 2009, and 2010.
5. [REDACTED] was an employee who prepared tax returns for taxpayers who sought the services of MTS, for tax years 2008, 2009, and 2010.

***MANNER AND MEANS BY WHICH THE
CONSPIRACY WAS CARRIED OUT***

The manner and means by which the conspiracy was sought to be accomplished through dishonesty, craft and trickery included, among others, the following:

1. By preparing Forms 1040, U.S. Individual (and two joint) Income Tax Return(s), which contained false items, including false line items on Form 1040, false itemized deductions shown on Schedule A, Itemized Deductions, and false business income and expenses on Schedule C, Profit or Loss from a Business.
2. By filing tax returns prepared at MTS using [REDACTED] Preparer Tax Identification Number (PTIN), a number issued by the IRS to paid tax return preparers, even if [REDACTED] did not prepare the return and said return was prepared by either **HERNANDEZ**, [REDACTED]
[REDACTED]

3. To file income tax returns on behalf of its clients, MTS used “CrossLink 1040” professional tax software solution for high-volume tax businesses.

4. Defendants, MARGARITA HERNANDEZ, [REDACTED] [REDACTED] [REDACTED] [REDACTED] were all employees who prepared tax returns at MTS for tax years 2008, 2009, and 2010.

5. HERNANDEZ, [REDACTED], [REDACTED] [REDACTED] are related to one another.

6. [REDACTED] HERNANDEZ, [REDACTED] [REDACTED] all lived and worked within the Western District of Texas.

7. Clients of MTS reported that [REDACTED] HERNANDEZ, [REDACTED] [REDACTED] prepared returns with (1) false and inflated unreimbursed employee business expenses on Schedules A *Itemized Deductions*, and (2) false Schedules C *Profit or Loss from Business*, and (3) false and inflated child and dependent care expenses on Form 2441 *Child and Dependent Care Expenses*, and (4) false and inflated education credits on Form 8863 *Education Credits (American Opportunity, Hope, and Lifetime Learning Credits)*, and (5) false Form 1040 dependents/personal exemptions, and (6) false Form 1040 filing statuses. Often these false line items resulted in a higher EIC for the client.

8. An Earned Income Credit (“EIC”): Refundable tax credit for eligible people who work and have income less than specified amounts. The amount of the credit is based on income, filing status, and the number of qualifying children. It is beneficial to taxpayers because it does not only reduce the amount of taxes owed, but it is refundable in the form of a tax refund after filing an individual income tax return, even if no taxes are owed.

9. Electronic Filing Identification Number (“EFIN”) is a number issued by the IRS to individuals or firms that have been approved as authorized IRS e-file providers. It is included with all electronic return data transmitted to the IRS. There is no fee for an EFIN.

10. A client of MTS reported that **HERNANDEZ** stated that she would fabricate figures on the tax return for an additional fee, while a different client explained that **HERNANDEZ** took a portion of their refund that was generated by a false Schedule C. During the timeframe of this Indictment, MTS utilized an EFIN.

11. [REDACTED] **HERNANDEZ**, [REDACTED] [REDACTED] all used the figure of \$2,400 as education expenses when inflating the amount of credit that their clients were entitled to receive.

Overt Acts

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Western District of Texas, and elsewhere:

1. In 2009, 2010 and 2011, [REDACTED] instructed **HERNANDEZ**, [REDACTED] [REDACTED] to prepare tax returns containing inflated or fabricated figures.
2. In 2009, 2010 and 2011, [REDACTED] would assist **HERNANDEZ**, [REDACTED] [REDACTED] to prepare their clients' returns with false items.
3. In 2009, 2010 and 2011, [REDACTED] **HERNANDEZ**, [REDACTED] [REDACTED] used the same false line items from client to client i.e. false or inflated education credits, false or inflated Schedules C.
4. Beginning in the 2011 filing season, [REDACTED] allowed **HERNANDEZ**, [REDACTED] [REDACTED] to prepare tax returns reporting [REDACTED] PTIN.
5. All tax returns were filed using [REDACTED] EFIN.
6. On or about February 17, 2009, [REDACTED] prepared a 2008 Form 1040, U.S. Individual Income Tax Return, for M.E.R.
7. On or about February 17, 2009, [REDACTED] falsified Line 21 Schedule A Unreimbursed Employee Business Expenses of M.E.R.

8. On or about February 22, 2010, [REDACTED] prepared a 2009 Form 1040, U.S. Individual Income Tax Return, for M.E.R.
9. On or about February 22, 2010, [REDACTED] falsified Line 21 Schedule A Unreimbursed Employee Business Expenses of M.E.R.
10. On or about March 14, 2011, [REDACTED] prepared a 2010 Form 1040, U.S. Individual Income Tax Return, for M.E.R.
11. On or about March 14, 2011, [REDACTED] falsified Line 21 Schedule A Unreimbursed Employee Business Expenses of M.E.R.
12. On or about February 23, 2009, [REDACTED] prepared a 2008 Form 1040, U.S. Individual Income Tax Return, for S.O.
13. On or about February 23, 2009, [REDACTED] falsified Line 50, Education Credits of S.O.'s Form 1040, U.S. Individual Income Tax Return.
14. On or about April 12, 2010, [REDACTED] prepared a 2009 Form 1040, U.S. Individual Income Tax Return, for C.D.
15. On or about April 12, 2010, [REDACTED] falsified Line 21 Schedule A Unreimbursed Employee Business Expenses of C.D.'s Form 1040, U.S. Individual Income Tax Return.
16. On or about February 25, 2011, **HERNANDEZ** prepared a 2010 Form 1040, U.S. Individual Income Tax Return, for S.O.
17. On or about February 25, 2011, **HERNANDEZ** falsified Line 50, Education Credits of S.O.'s Form 1040, U.S. Individual Income Tax Return
18. On or about March 14, 2011, **HERNANDEZ** prepared a 2010 Form 1040, U.S. Individual Income Tax Return, for C.D.

19. On or about March 14, 2011, **HERNANDEZ** falsified Line 21 Schedule A Unreimbursed Employee Business Expenses of C.D.'s Form 1040, U.S. Individual Income Tax Return.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO through SEVEN
(26 .S.C. § 7206(2))

1. The Parties, Persons and Entities, Manner and Means of the Scheme to Defraud and Overt Acts as alleged previously in this indictment are incorporated by reference herein as if fully set out.

2. Beginning on a date unknown to the Grand Jury, but no earlier than on or about February 9, 2009, and continuing until and including, on or about March 14, 2011, in the Western District of Texas, and elsewhere, the defendant,

[REDACTED]

on or about the dates described below, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of U.S. Individual Income Tax Returns, Forms 1040 and accompanying schedules, either individual or joint, for the taxpayers and calendar years hereinafter specified and the returns were false and fraudulent as to material matters, in that they represented that the taxpayers were entitled under the provisions of the Internal Revenue laws to claim deductions and credits for items and in amounts hereinafter specified, whereas, as the defendant then and there knew, the taxpayers were not entitled to claim deductions in the claimed amounts;

Count	Date Taxes Due/Date Taxes Filed	Taxpayer(s)	Calendar Tax Year	Falsely Claimed Item(s)	Inflated Amount Claimed
Two	April 15, 2009 February 9, 2009	M.G.	2008	Form 1040, # 50 (Ed. Credit)	\$158
Three	April 15, 2009 February 9, 2009	A.G.	2008	Form 1040, 64a (Earned Income Credit)	\$4,824
Four	April 15, 2009 February 17, 2009	M.E.R.	2008	Schedule A, #21 (Unreim. Emp. Exp.)	\$3,532
Five	April 15, 2009 February 23, 2009	S.O.	2008	Schedule A #21 (Unreim. Emp. Exp.) Form 1040 #50 (Ed. Credit)	\$8,080 \$1,800
Six	April 15, 2010 February 15, 2010	A.G.	2009	Form 1040 #64a (Earned Income Credit) #40a (Standard Deduction)	\$4,750 \$2,650
Seven	April 18, 2011 March 14, 2011	M.G.	2010	Form 1040 #49 (Ed. Credit) #66 (Am. Opp. Credit)	\$1,260 \$840

All in violation of Title 26, United States Code, Section 7206(2).

COUNTS EIGHT through FIFTEEN
(26 .S.C. § 7206(2))

1. The Parties, Persons and Entities, Manner and Means of the Scheme to Defraud and Overt Acts as alleged previously in this indictment are incorporated by reference herein as if fully set out.

2. Beginning on a date unknown to the Grand Jury, but no earlier than on or about February 22, 2010, and continuing until and including, on or about June 6, 2011, in the Western District of Texas, and elsewhere, the defendant,

MARGARITA HERNANDEZ (2),

on or about the dates described below, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of U.S. Individual Income Tax Returns, Forms 1040 and accompanying schedules, either individual or joint, for the taxpayers and calendar years hereinafter specified and the returns were false and fraudulent as to material matters, in that they represented that the taxpayers were entitled under the provisions of the Internal Revenue laws to claim deductions and credits for items and in amounts hereinafter specified, whereas, as the defendant then and there knew, the taxpayers were not entitled to claim deductions in the claimed amounts;

Count	Date Taxes Due/Date Taxes Filed	Taxpayer(s)	Calendar Tax Year	Falsely Claimed Item(s)	Inflated Amount Claimed
Eight	April 15, 2010	C.P.	2009	Form 1040 #64a (Earned Income Credit),	\$2,235
	February 22, 2010			#12 (Bus. Income)	\$7,600
				#65 (Additional Child Tax Credit)	\$962
				# 63 (Making Work Pay Credit)	\$228
Nine	April 15, 2010	L.L.D.	2009	Form 1040 #64a (Earned Income Credit)	\$1,727
	May 10, 2010			#12 (Bus. Income)	\$5,050
				#65 (Add.	\$704

Nine cont.				Child Tax Credit) #40a (Standard Deduction) #42(Exempt.)	\$2,650 \$3,650
Ten	April 18, 2011 February 14, 2011	C.R.	2010	Form 1040 #64a (Earned Income Credit) #49 (Ed. Credit) #66 (Am. Opp. Credit) #40 (Standard Deduction)	\$545 \$1,260 \$840 \$2,700
Eleven	April 18, 2011 February 25, 2011	S.O.	2010	Form 1040 #49 (Ed. Credit) #66 (Am. Opp. Credit)	\$1,260 \$840
Twelve	April 18, 2011 March 14, 2011	C.D.	2010	Schedule A #21 (Unreim. Em. Expenses) #1 (Med./Dental Exp.) Form 1040 #49 (Ed. Credit) Form 1040 #66(Am. Opp. Credit)	\$2,000 \$2,200 \$1,260 \$840
Thirteen	April 18, 2011 April 4, 2011	A.R.	2010	Schedule A #21 (Unreim. Emp. Exp.) #1 (Med./Dental Exp.) Form 1040 #49 (Ed. Credit) #66 (Am. Opp. Credit)	\$3,106 \$3,020 \$1,260 \$840
Fourteen	April 18, 2011 April 18, 2011	L.L.D.	2010	Form 1040 #64a (Earned Income Credit) #12 (Bus.	\$5,565 \$14,040

Fourteen cont.				Income)	
				#65 (Add. Child Credit)	\$1,543
				#63 (Making Work Pay Credit)	\$364
				#66 (Am. Opp. Credit)	\$840
				#40 (Standard Deduction)	\$2,700
				#42 (Exemptions)	\$3,650
Fifteen	April 18, 2011	S.O. & L.O.	2010	Schedule A #21 (Unreim. Emp. Exp.)	\$6,766
	June 6, 2011			Form 1040 #49 (Ed. Credits)	\$2,520
				#66 (Am. Opp. Credit)	\$1,680

All in violation of Title 26, United States Code, Section 7206(2).

COUNTS SIXTEEN through TWENTY
(26 .S.C. § 7206(2))

1. The Parties, Persons and Entities, Manner and Means of the Scheme to Defraud and Overt Acts as alleged previously in this indictment are incorporated by reference herein as if fully set out.

2. Beginning on a date unknown to the Grand Jury, but no earlier than on or about April 12, 2010, and continuing until and including, on or about March 21, 2011, in the Western District of Texas, and elsewhere, the defendant,

— [REDACTED] —

on or about the dates described below, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of U.S. Individual Income Tax Returns, Forms 1040 and accompanying schedules, either individual or joint, for the taxpayers and calendar years hereinafter specified and the returns were false and fraudulent as to

material matters, in that they represented that the taxpayers were entitled under the provisions of the Internal Revenue laws to claim deductions and credits for items and in amounts hereinafter specified, whereas, as the defendant then and there knew, the taxpayers were not entitled to claim deductions in the claimed amounts;

Count	Date Taxes Due/Date Taxes Filed	Taxpayer(s)	Calendar Tax Year	Falsely Claimed Item(s)	Inflated Amount Claimed
Sixteen	April 15, 2010 April 12, 2010	C.D.	2009	Schedule A #21 (Unreim. Emp. Exp.) Form 1040 #12 (Bus. Income)	\$2,000 \$2,050 (understated)
Seventeen	April 15, 2010 May 3, 2010	S.O. & L.O.	2009	Schedule A #21 (Unreim. Emp. Exp.)	\$7,066
Eighteen	April 18, 2011 February 7, 2011	D.C.	2010	Form 1040 #49 (Ed. Credit) #66 (Am. Opp. Credit)	\$1,260 \$840
Nineteen	April 18, 2011 March 7, 2011	R.R.	2010	Form 1040 #49 (Ed. Credit) #66 (Am. Opp. Credit)	\$900 \$600
Twenty	April 18, 2011 March 21, 2011	M.T.	2010	Form 1040 #64a (Earned Inc. Credit) #49 (Ed. Credit) #66 (Am. Opp. Credit) #40 (Stand. Deduction)	\$497 \$1,260 \$840 \$2,700

All in violation of Title 26, United States Code, Section 7206(2).

COUNTS TWENTY-ONE and TWENTY-TWO
(26 .S.C. § 7206(2))

1. The Parties, Persons and Entities, Manner and Means of the Scheme to Defraud and Overt Acts as alleged previously in this indictment are incorporated by reference herein as if fully set out.

2. Beginning on a date unknown to the Grand Jury, but no earlier than on or about February 22, 2010, and continuing until and including, on or about March 14, 2011, in the Western District of Texas, and elsewhere, the defendant,

[REDACTED]

on or about the dates described below, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of U.S. Individual Income Tax Returns, Forms 1040 and accompanying schedules, either individual or joint, for the taxpayers and calendar years hereinafter specified and the returns were false and fraudulent as to material matters, in that they represented that the taxpayers were entitled under the provisions of the Internal Revenue laws to claim deductions and credits for items and in amounts hereinafter specified, whereas, as the defendant then and there knew, the taxpayers were not entitled to claim deductions in the claimed amounts;

Count	Date Taxes Due/Date Taxes Filed	Taxpayer(s)	Calendar Tax Year	Falsely Claimed Item(s)	Inflated Amount Claimed
Twenty-One	April 15, 2010	M.E.R	2009	Schedule A #21 (Unreim. Emp. Exp.)	\$4,145
	#1 (Med./Dental Exp.)			\$1,490	
	Form 1040 #49 (Ed. Credit) #66 (Ref.			\$875	

Twenty-One cont.				Ed. Credit)	\$583
Twenty-Two	April 18, 2011	M.E.R.	2010	Schedule A #21 (Unreim. Emp. Exp.)	\$4,435
	March 14, 2011			#1 (Med./Dental Exp.)	\$3,540
				Form 1040 #49 (Ed. Credit)	\$1,260
				#66 (Am. Opp. Credit)	\$840

All in violation of Title 26, United States Code, Section 7206(2).

A TRUE BILL

**ORIGINAL SIGNATURE
REDACTED PURSUANT TO
E-GOVERNMENT ACT OF 2002**

FOREPERSON OF THE GRAND JURY

RICHARD L. DURBIN, JR.
ACTING UNITED STATES ATTORNEY

BY:


Assistant U.S. Attorney